Military Police Complaints Commission of Canada

Commission d'examen des plaintes concernant la police militaire du Canada

A TIME OF RENEWAL

2015

ANNUAL REPORT

Canada

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LETTER OF TRANSMISSION **TO THE MINISTER**

March 31, 2016

The Honourable Harjit Sajjan, P.C., M.P.
Minister of National Defence
National Defence Headquarters
Major-General George R. Pearkes Building
Ottawa, Ontario K1A 0K2

Dear Minister:

In accordance with subsection 250.17(1) of the *National Defence Act*, it is my duty and privilege to submit, for tabling in Parliament, the Military Police Complaints Commission of Canada's *2015 Annual Report*.

In this annual report, you will find a detailed discussion of all significant aspects of the Military Police Complaints Commission of Canada's activities during 2015, including summaries of some of its reviews and investigations of complaints.

All of which is respectfully submitted.

Yours truly,

Hilary C. McCormack, LL.B.
Chairperson

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A TRIBUTE TO GLENN M. STANNARD

Glenn M. Stannard is unique among those who have served as Chairperson of the Military Police Complaints Commission of Canada (MPCC). He has been appointed to all three of the MPCC's Governor-in-Council positions: as Commission Member (2007-2009), Interim Chairperson (2009-2010) and Chairperson (2010-2015).

His career as Chairperson of the MPCC was bookended by two high-profile public interest hearings (PIH). He was one of two Commission Members assigned to hear and decide the complaint that certain Military Police wrongly failed to investigate Canadian Forces commanders for allegedly ordering the transfer of Afghan detainees to a known risk of torture at the hands of Afghan security forces. He also chaired the Fynes PIH into the Military Police investigations related to the suicide of Cpl Stuart Langridge.

Glenn Stannard's prior career as a police officer and police chief in Windsor served him well at the MPCC. He has a keen understanding of policing, based on his four decades 'on the job'. As a peace officer, he knew how to diffuse volatile situations. As police chief, he understood the importance of a responsive public complaints process and working closely with the civilian oversight body.

The many years Glenn Stannard spent at the MPCC was a demanding, challenging time. As Chairperson, he balanced the heavy demands of two back-to-back public interest hearings and a full case load of conduct and interference complaints. As the MPCC's CEO, he was responsible for overseeing the management of a growing organization and ensuring the MPCC met its corporate obligations. He is a skilled leader and a good judge of character. He believes it takes people with varied skill sets to make up a good team and he manages people with respect, kindness and a good sense of humour.

His legacy as Chairperson goes beyond the work he has done for the MPCC: the decisions rendered on numerous conduct and interference complaints files, and the final reports of several Public Interest Investigations and hearings. Glenn Stannard is a man of strong beliefs who is firm when he needs to be. But he is also a doting grandfather who enjoys sharing stories about his grandchildren; a boss who left his office door open; and a colleague who was always ready to share the ever-growing workload.

It came as no surprise that Glenn Stannard delayed his retirement from the MPCC so he might wrap up work on the Fynes Public Interest Hearing in order to release the Final Report. As his friends, family and colleagues have always known, Glenn Stannard does not do things by half measures. He always finishes a job he has started.

CHAIRPERSON'S MESSAGE

It gives me great pleasure to present the Military Police Complaint Commission of Canada's 2015 Annual Report. As this year's theme suggests, 2015 has truly been "A Time of Renewal".

My appointment as the MPCC's Chairperson came later in the year covered in this report, but I already feel a strong kinship to this organization. That is due, in part, to the warm welcome I have received from my new colleagues, and also because of my past work with the Department of National Defence's Military Police Advisory Committee, between 2000 and 2005. As a member of that committee, and as a longtime Crown Prosecutor, I worked collaboratively with the senior military leadership about proposed changes to the Military Police, how to improve its relationship with civilian courts and prosecution services, and what might be done to provide opportunities to its members for enhanced police training and education. I believe that experience will serve me well in my new position.

The police play a critical role in any democratic society. Fundamental to achieving their mandate and to maintaining the public confidence vested in policing bodies is that any police misconduct or malfeasance be addressed in accordance with the rule of law, and be open to scrutiny. Oversight bodies play the vital role of providing this independent, robust, public and transparent investigation process which is essential to maintaining this public confidence. Public confidence must always be earned and nurtured and never taken for granted.

I am committed to further advancing the important work of the MPCC in promoting, along with the Canadian Forces Provost Marshal, the highest standards of Military Police conduct. I am also committed to ensuring that the MPCC continues to work effectively with the Canadian Forces Provost Marshal, the chain of command, the military police community, our partners and stakeholders to fulfill our mandate.

As an organization, we have revitalized the Outreach program and developed a more collaborative relationship with the Canadian Forces Military Police Group by reaching agreements with the Canadian Forces Provost Marshal's office on a number of issues: a protocol governing the handling of Notices of Action; a working group to discuss and clarify issues regarding disclosure of Military Police information; and the provision of a full set of Military Police Orders.

This past year has been a busy one for the MPCC. The Final Report on the Fynes Public Interest Hearing into the events surrounding the suicide of Corporal Stuart Langridge was released at a news conference in March at the National Press Theatre. The report was the focus of local and national news for days after its release. The three-volume, 1,008-page report, signed by then-Chairperson Glenn Stannard, represents the efforts of our entire staff who worked diligently to complete this important report.

With that level of professionalism and dedication, it is not surprising that the MPCC claimed the top spot among the federal government's micro agencies in the 2014 Public Service Employee Survey. With a 100% participation rate, employees' answers revealed a high level of satisfaction with their workplace, managers and leaders. I am committed to maintaining that high level of employee satisfaction.

On November 4, 2015, the MPCC announced it would conduct a Public Interest Investigation into an anonymous complaint it had received relating to the alleged mistreatment of detainees held at the Canadian base in Kandahar in 2010–2011.

After considerable research and discussion with my colleagues, I concluded that a Public Interest Investigation was necessary. I based that decision on several factors: the nature and seriousness of the allegations; whether the allegations have the potential to affect public confidence in the Military Police; whether the allegations raise systemic issues related to Military Police processes and policies; whether there has been prior public interest in the events manifested by the community; whether there is a need for a public and transparent investigation process due to the nature of the allegations or other factors; and whether there is a need for an independent investigation process in order to maintain confidence in the process for the public and/or the complainant.

2015 has been a time of change for the MPCC. I am the third person to occupy the Chairperson's office this year. Glenn Stannard retired in March after an eight-year tenure at the MPCC: as part-time Commission Member; Interim Chairperson and Chairperson. I join with the rest of the staff in thanking Glenn for his input and insight into the many complex conduct and interference complaints, and his strong leadership during two lengthy, demanding Public Interest Hearings.

My sincere thanks as well to Commission Member Michel Séguin who served as Interim Chairperson for six months during this recent period of transition. I am delighted that Michel remains with us as a part-time Commission Member and grateful for his assistance as I assume the role of Chairperson.

As 2015 comes to a close, we bid farewell to Commission Members Hugh R. Muir and Steven Chabot. We are indebted to our Commission Members for their thoughtful and astute input when reviewing complaints, and also for the important role they play as MPCC ambassadors when they visit bases and wings across Canada. We welcome Troy DeSouza as our newest part-time Commission Member. Troy brings with him a unique blend of both legal and military experience and expertise. Before becoming a lawyer, Troy was an officer in the Canadian Armed Forces.

In closing, I would like to thank my counterparts in the military who have taken the time to meet with me and welcome me to my new position. I have had the pleasure of meeting the Chief of Defence Staff General Vance; the Vice Chief of Defence Staff Lieutenant-General Thibault; the Commander of the Canadian Army Lieutenant-General Hainse; the Commander of the Royal Canadian Air Force Lieutenant-General Hood; the Commander of the Royal Canadian Navy Vice-Admiral Norman; Judge Advocate General Major-General Cathcart; and the Canadian Forces Provost Marshal Brigadier-General Delaney.

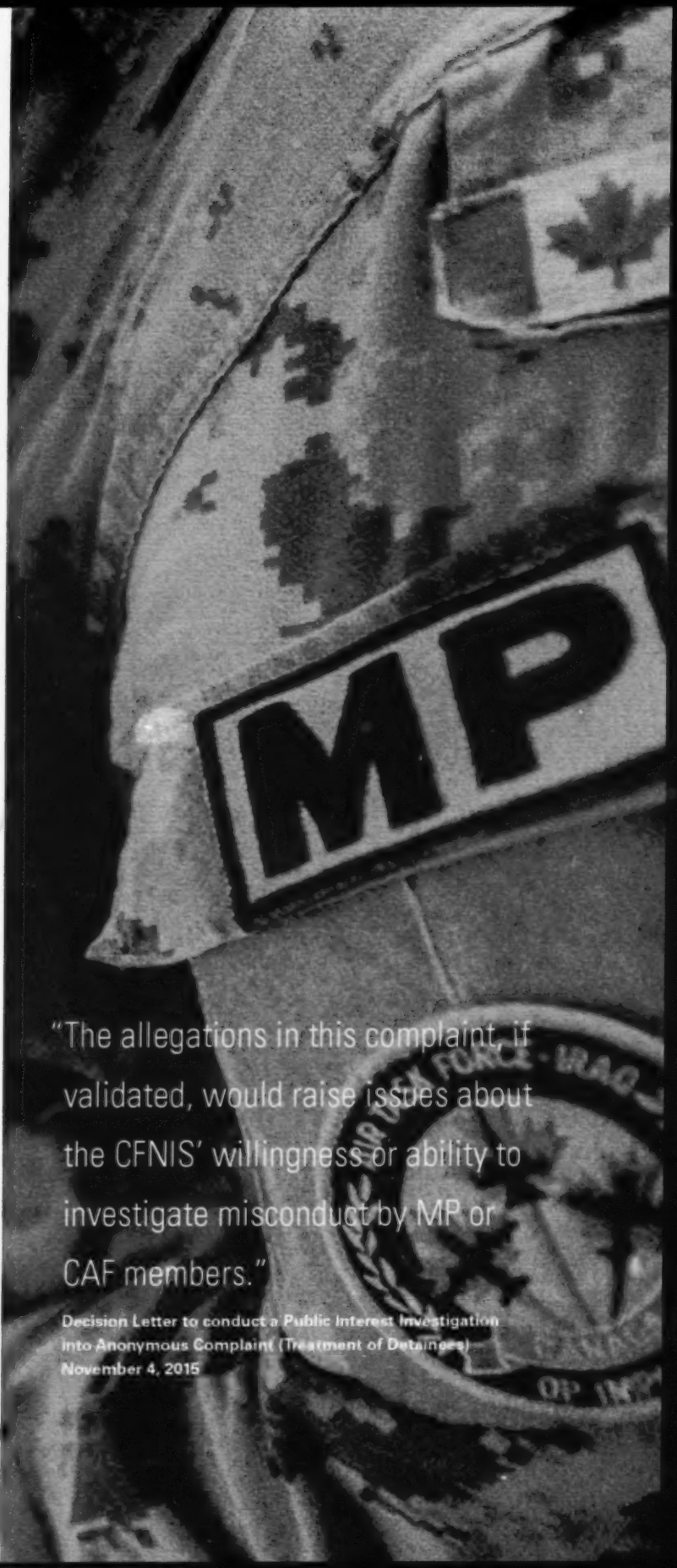
I hope you enjoy reading this annual report. I believe it reflects the significant accomplishments of the MPCC's staff during this past year, as well as our commitment to the highest standards of operational and administrative excellence.

We look forward to challenges and opportunities the next year will bring.

Hilary C. McCormack, LL.B.
Chairperson

PART 1

OVERVIEW



"The allegations in this complaint, if validated, would raise issues about the CFNIS' willingness or ability to investigate misconduct by MP or CAF members."

Decision Letter to conduct a Public Interest Investigation into Anonymous Complaint (Treatment of Detainees) November 4, 2015

I

MILITARY POLICE COMPLAINTS COMMISSION OF CANADA

The Military Police Complaints Commission of Canada (MPCC) was established on December 1, 1999 by the Government of Canada to provide independent civilian oversight of the Canadian Forces Military Police (MP). This was achieved through an amendment to the *National Defence Act* (NDA) creating a new Part IV, which sets out the mandate of the MPCC and how complaints are to be handled. As stated in Issue Paper No. 8, which accompanied the Bill that created the MPCC, its role is "…to provide for greater public accountability by the military police and the chain of command in relation to military police investigations".

"The possibility that a lack of independence may exist... would go to the core of military policing and would raise questions about the ability of the CFNIS to perform its important role."

Decision Letter to conduct a Public Interest Investigation into Anonymous Complaint (Treatment of Detainees) November 4, 2015

II

MANDATE AND MISSION

Mandate: The MPCC reviews and investigates complaints concerning Military Police conduct and investigates allegations of interference in Military Police investigations. The MPCC reports its findings and makes recommendations directly to the Military Police and National Defence leadership.

Mission: To promote and ensure the highest standards of conduct of Military Police in the performance of policing duties and to discourage interference in any Military Police investigation.

The MPCC fulfils its mandate and mission by exercising the following responsibilities:

- Monitoring investigations by the Canadian Forces Provost Marshal (CFPM) of Military Police (MP) conduct complaints;
- Reviewing the disposition of those complaints at the request of the complainant;
- Investigating complaints of interference; and
- Conducting public interest investigations and hearings.

III

ORGANIZATIONAL BACKGROUND

The MPCC is one of 12 organizations in the Defence Portfolio. While it reports to Parliament through the Minister of National Defence (MND), the MPCC is both administratively and legally independent from the Department of National Defence (DND) and the Canadian Armed Forces (CAF). The MPCC is not subject to direction from the MND in respect of its operational mandate.

The MPCC is an independent federal government institution as defined under Schedule I.1 of the *Financial Administration Act* (FAA). As an independent oversight agency, the MPCC must operate at a distance and with a degree of autonomy from government, including the DND and the CAF. The MPCC Commission Members and employees are civilians and are independent of the DND and the CAF in fulfilling their responsibilities and accountabilities in accordance with governing legislation, regulations and policies.

Tribunal decisions and MPCC operations and administration must also be, and be seen to be, free from ministerial influence, other than seeking the signature of the MND as the Minister responsible for routine tabling the MPCC's Reports on Plans and Priorities, Departmental Performance Reports, Annual Reports to Parliament, and other accountability documents such as Memoranda to Cabinet and Treasury Board submissions.

The Chairperson, as Chief Executive Officer (CEO) of the MPCC, is accountable for all MPCC activities and for the achievement of results. Based on the *Terms and Conditions of Employment for Full-Time Governor in Council Appointees*, the Chairperson is Chief Executive Officer, statutory deputy head or Deputy Head, as defined by the FAA and as designated through the Governor in Council.

As Deputy Head, the Chairperson is accountable to Parliament for fulfilling management responsibilities, including financial management. This includes accountability for allocating resources to deliver MPCC programs and services in compliance with governing legislation; regulations and policies; exercising authority for human resources as delegated by the Public Service Commission; maintaining effective systems of internal controls; signing accounts in a manner that accurately reflects the financial position of the MPCC and exercising any and all other duties prescribed by legislation, regulations or policies relating to the administration of the MPCC.

IV

THE CANADIAN FORCES PROVOST MARSHAL AND THE DEPUTY COMMANDER, CANADIAN FORCES MILITARY POLICE GROUP/ PROFESSIONAL STANDARDS

On April 1, 2011, the CFPM assumed full command of all MP members who are directly involved in policing. The CFPM also assigns MP elements to other supported commanders under operational command.

The Deputy Commander of the Canadian Forces Military Police Group (CF MP Gp) manages public complaints and internal MP misconduct investigations and ensures adherence to the *Military Police Professional Code of Conduct*.

The CFPM is the first to respond to complaints about MP conduct. The MPCC has the authority to monitor the actions taken by the CFPM as it responds to complaints, and to conduct its own reviews and investigations as required. The MPCC has the exclusive authority to deal with interference complaints.

The MPCC's recommendations, contained in its Interim and Final Reports, are not binding on the CAF and the DND. However, such recommendations do provide the Military Police with the opportunity to improve its operations and further enhance transparency and accountability.

See sub-sections vi) and vii) for detailed information about the conduct and interference complaints processes.

V

THE MILITARY POLICE

The CAF MP Branch was formed in 1968 with the unification of the CAF. MP members were allocated to the Army, Navy and Air Force. The stated Mission of the CAF MP is to contribute to the effectiveness and readiness of the CAF and the DND through the provision of professional police, security and operational support services worldwide.

The MP Branch is comprised of 1926 personnel: 405 reservists and 1,521 sworn, credentialed members (officers and non-commissioned members). Credentialed members are those members who are entitled to be in possession of an MP badge and identification card and thus peace officers by virtue of article 22.02, of the *Queen's Regulations and Orders*, s. 156 of the NDA and s. 2 of the *Criminal Code of Canada*.

The MP exercise jurisdiction within the CAF over both DND employees and civilians on DND property. The MP form an integral part of the military justice system in much the same way as civilian police act within the civilian criminal justice system. MP routinely train and work with their civilian counterparts in the provision of police and security services to the CAF and the DND.

Members of the Military Police are granted certain powers under the NDA in order to fulfill their policing duties. For example, Military Police members have the power to arrest, detain and search. The *Criminal Code* recognizes members of the MP as peace officers. Therefore, they can make arrests and lay charges in civilian criminal courts. Additionally, MP members posted to the Canadian Forces National Investigation Service (CFNIS) can also lay charges under the NDA's *Code of Service Discipline*.

VI

CONDUCT COMPLAINTS PROCESS

Conduct Complaint Filed

Anyone may make a conduct complaint regarding the MP in the performance of their policing duties or functions, including individuals not directly affected by the subject matter of the complaint. Such complaints are initially dealt with by the CFPM. Informal resolution is encouraged.

Complaint Investigated by the CFPM

As the CFPM investigates a complaint, the MPCC monitors the process. At the conclusion of the investigation, the CFPM provides a copy of its final disposition of the complaint to the MPCC. The MPCC may, at any time during the CFPM investigation, assume responsibility for the investigation or call a public hearing if it is deemed to be in the public interest (see section viii below).

Request for Review

Complainants may request the MPCC review the complaint if they are not satisfied with the results of the CFPM's investigation or disposition of the complaint.

MPCC Reviews Complaint

At a minimum, this process involves a review of documentation related to the CFPM's investigation. Often, it also includes interviews with the complainant, the subject of the complaint, and witnesses, as well as consideration of relevant legislation, and military and civilian police policies, procedures and best practices.

MPCC Releases Interim Report

At the completion of the review, the Chairperson sends the Interim Report to the MND, the Chief of the Defence Staff (CDS) and the CFPM, setting out the MPCC's findings and recommendations regarding the complaint.

Notice of Action

The Notice of Action is the official response by the CAF to the Interim Report. It outlines what action, if any, has been or will be taken in response to the MPCC's recommendations.

MPCC Releases Final Report

After considering the Notice of Action, the MPCC issues a Final Report of findings and recommendations. The Final Report is provided to the MND, the Deputy Minister (DM), the CDS, the Judge Advocate General (JAG), the CFPM, the complainant(s) and the subject(s) of the complaint, as well as anyone who has satisfied the MPCC that they have a substantial and direct interest in the case.

How the MPCC carries out its reviews and investigations of conduct complaints

In response to a request from a complainant for a review, the MPCC follows the steps described below:

- The MPCC conducts a preliminary review of the request for review and the Chairperson, determines how to respond to the request, whether an investigation is required, the scope of the investigation warranted and how to approach the investigation. The Chairperson may also delegate a Commission Member to handle the file.
- A lead investigator is assigned and, with MPCC legal counsel, reviews the evidence and other materials gathered during the CFPM's investigation of the complaint. This could be hundreds of pages of documents, emails, handwritten notes and reports, and many hours of witness audio and video recordings.
- The lead investigator prepares an investigation plan, setting out the goals, timelines and budget for the investigation, as well as the lines of inquiry to be pursued, all of which must be approved by the Chairperson or the delegated Commission Member.
- The lead investigator and an assisting investigator, in consultation with MPCC legal counsel and the Chairperson or the delegated Commission Member, then review any relevant legislation, policies and regulations, arrange and conduct interviews with complainants, subject members and witnesses and request additional documentary materials as necessary.
- The investigators submit a comprehensive investigation report on the information gathered during the investigation to the MPCC.
- Subject to any further inquiries requested by the Chairperson or delegated Commission Member, the Chairperson or the delegated Commission Member reviews the results of the investigation and makes findings and recommendations about the complaint. On the basis of these findings and recommendations, the Chairperson or the delegated Commission Member prepares the MPCC's Interim Report. The Interim Report goes to the MND, the CDS and the CFPM.
- Following receipt and consideration of the official response to the MPCC's Interim Report, which is ordinarily provided by the CFPM in a Notice of Action, the MPCC prepares and issues its Final Report, which goes to the relevant departmental officials, the complainant(s) and the subject Military Police member(s), as well as anyone who has satisfied the MPCC that they have a substantial and direct interest in the case.

VII

INTERFERENCE COMPLAINTS PROCESS

Interference Complaint Filed

Any member of the MP who conducts or supervises investigations and believes a member of the CAF or a senior official of the DND has interfered with or attempted to influence an MP investigation may file a complaint with the MPCC.

MPCC Investigates

The MPCC has sole jurisdiction to investigate interference complaints. A preliminary review is conducted to determine whether an investigation should be commenced, the scope of the investigation and how to approach the investigation. Once this process is complete, the MPCC begins its investigation.

MPCC Releases Interim Report

The Interim Report includes a summary of the MPCC's investigation, as well as its findings and recommendations. This report goes to the MND, the CDS, if the alleged interference was carried out by a member of the military, or to the Deputy Minister (DM) of National Defence, if the subject of the complaint is a senior official of the DND, the JAG, or the CFPM.

Notice of Action

The Notice of Action is the official response to the Interim Report. It indicates the actions, if any, which have been or will be taken to implement the MPCC's recommendations.

MPCC Releases Final Report

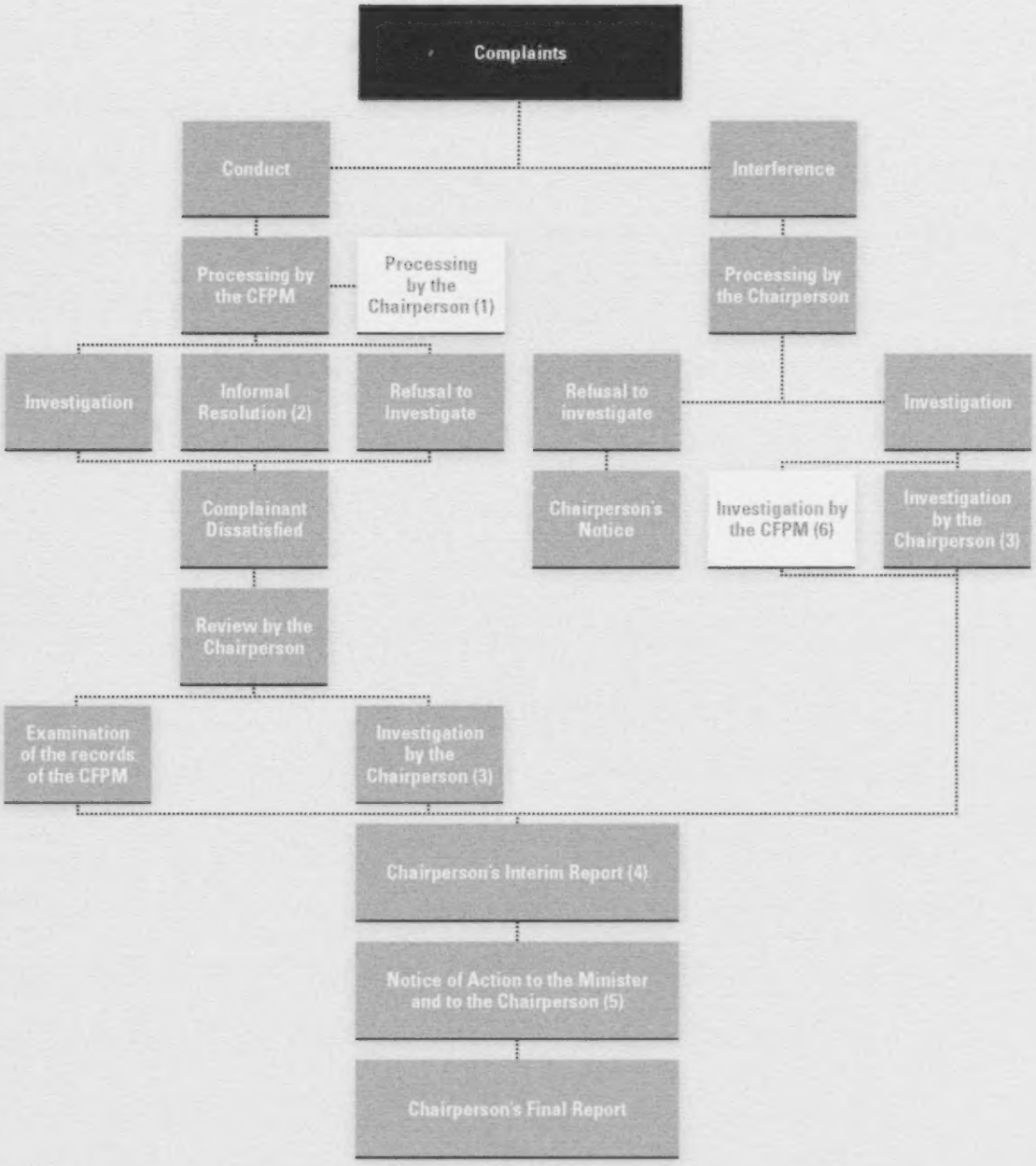
Taking into account the response set out in the Notice of Action, the MPCC prepares a Final Report of its findings and recommendations in the case. The Final Report is provided to the MND, the DM, the CDS, the JAG, the CFPM, the complainant(s), and the subject(s) of the complaint, as well as anyone who has satisfied the MPCC that they have a substantial and direct interest in the case.

VIII

PUBLIC INTEREST INVESTIGATIONS AND HEARINGS

At any time it is in the public interest, the Chairperson may initiate an investigation into a complaint about police conduct or interference in a police investigation. If warranted, the Chairperson may decide to hold a public interest hearing. In exercising this statutory discretion, the Chairperson considers a number of factors including, among others:

- Does the complaint involve allegations of serious misconduct?
- Do the issues have the potential to affect confidence in the MP or the complaints process?
- Does the complaint involve or raise questions about the integrity of senior military or DND officials, including senior MP members?
- Are the issues involved likely to have a significant impact on MP practices and procedures?
- Are the issues of broader public concern or importance?



1 At any time, in the public interest, the Chairperson may take over a complaint and cause the Complaints Commission to conduct an investigation (section 250.38).

2 Does not apply to a conduct complaint of the type specified in the regulation.

3 In the public interest, the Chairperson may cause the Complaints Commission to conduct an investigation and, if warranted, hold a hearing (section 250.38).

4 In the case of a hearing, the interim report is prepared by the Complaints Commission.

5 According to the nature of the complaint, the status or the rank of the subject of the complaint, the person who provides the notice could be the CFPM, the Chief of the Defence Staff, the Deputy Minister or the Minister (section 250.49 and 250.5).

6 Exceptionally, the Chairperson may ask the CFPM to investigate.

PART 2

THE YEAR IN REVIEW

"The Notice of Action is not an element in a private confidential conversation between the Commission and the Military Police. It is a statutorily mandated requirement."

Fynes Final Report, March 10, 2015

I

MONITORING AND INVESTIGATIONS

The following table highlights the Military Police Complaints Commission of Canada (MPCC) statistics on a four-year comparative basis from 2012 to 2015. The table cannot fully report the increase in the complexity and scope of the types of complaints the MPCC handles, nor accurately predict when complex complaints will be referred.

STATISTICS FROM 2012 – 2015	2012	2013	2014	2015
Conduct Complaints Carried Over	28	31	26	31
New Conduct Complaints (A)	51	43	54	57
Interference Complaints Carried Over	3	3	3	7
New Interference Complaints	2	3	2	1
Reviews Carried Over	10	9	11	17
New Reviews	8	14	15	8
s.250.38 Public Interest Investigations/Hearings Carried Over	2	1	1	1
New s.250.38 Public Interest Investigations/Hearings	0	0	0	1
Judicial Proceedings Carried Over (e.g. Judicial Review)	0	0	1	0
New Judicial Proceedings (e.g. Judicial Review)	0	1	0	1
Other External Proceedings Carried Over	0	0	0	1
New Other External Proceedings	0	0	1	0
General Files Opened (Request for information, summary advice and other)	59	63	56	69
New Files Opened	**120**	**124**	**128**	**137**
Total Files Dealt With During the Year	**163**	**168**	**170**	**194**
Public Interest Decisions/Rulings Issued	8	0	0	1
Time Extension Decisions Issued	2	7	5	11
Interim Reports Issued	7	6	12	6
Final Reports Issued (B)	14	12	9	13
Recommendations on Final Reports	12	7	12	104[1]
Percentage of Recommendations Accepted	92%	86%	100%	36%[2]
Reports/Decisions/Rulings Issued	**31**	**25**	**26**	**31**

(A) Includes No Jurisdiction complaints/Ext. of Time Denied

(B) Includes Concluding Reports and No Jurisdiction letters

1 96 recommendations in one file

2 An unusually large proportion of the recommendations made by the MPCC during the reporting period – 96/112, or 86%, arises from one large case – a complex Public Interest Hearing (the Fynes PIH). In this case, a large number of the CFPM responses to the MPCC recommendations (70%) were framed in non-committal language, rather than in terms of a straightforward "accepted" or "not accepted". In the circumstances of this case, the MPCC deemed these non-committal responses as not accepting of the associated recommendation. For all the other cases completed during the reporting period, 100% of MPCC recommendations were accepted.

II

FYNES PUBLIC INTEREST HEARING

The MPCC released the Final Report on the Fynes Public Interest Hearing (PIH) on March 10, 2015. The hearing into events surrounding the death of Corporal (Cpl) Stuart Langridge was the MPCC's lengthiest hearing to date.

Cpl Langridge committed suicide at Canadian Forces Base Edmonton on March 15, 2008. His parents, Sheila and Shaun Fynes, filed a formal complaint with the MPCC in January 2011 about the three investigations conducted by the Canadian Forces National Investigation Service (CFNIS) following Cpl Langridge's death. The Fynes alleged that the investigations were biased and inadequate. Other allegations cited incompetence, and a lack of independence and professionalism. The Fynes also complained about the CFNIS' failure to disclose their son's suicide note to them.

The MPCC found 15 of the allegations to be unsubstantiated, including all the allegations of bias and lack of independence. Nine allegations

"The Commission has identified deficiencies in all three investigations…However, there is no evidence any of these deficiencies were the result of lack of independence or bias… Rather, the deficiencies largely resulted from inexperience, faulty assumptions and inadequate supervision."

Fynes Final Report, March 10, 2015

were substantiated in part. The other 15 allegations were found to be substantiated, including the allegation that the CFNIS failed to tell the Fynes about their son's suicide note. The Fynes found out about the note through other means 14 months after their son's death, and their request to be given the original note was initially refused. They were not provided a timely apology or satisfactory explanation by the CFNIS.

The MPCC made 96 recommendations to improve the quality of military policing in Canada. The recommendations are meant to ensure that:

- CFNIS investigators gain sufficient field experience in sudden death investigations before they qualify to lead such investigations;
- CFNIS investigations involving complex facts or allegations are actively supervised;
- policies, procedures and training are improved to ensure that investigations are adequately planned and that legal requirements are met;
- CFNIS policies dealing with suicide notes at the scene of a suicide or in the course of a sudden death investigation are revised and clarified to allow for their prompt release to the families;
- procedures and policies are put in place so that briefings for families at the end of sudden death investigations are meaningful and contain substantive information;
- policies and practices are adopted in order to strengthen Military Police independence and to improve the ability of the Military Police to demonstrate that independence;
- policies are updated to ensure Security and Military Police Information System (SAMPIS) entries are not modified without proper records of the author being kept; and
- sufficient information is provided to the MPCC in Public Interest Hearings and adequate practices are adopted to facilitate the conduct of such Hearings.

The Military Police, with a few exceptions, either directly rejected or failed to respond to the MPCC's findings and recommendations. In this case, a large number of the CFPM responses to the MPCC recommendations (70%) were framed in non-committal language, rather than in terms of a straightforward "accepted" or "not accepted".

The Military Police initially refused to authorize the publication of its official response to the MPCC's Report, the Notice of Action. Publication of the Notice of Action was authorized by the CFPM after the MPCC commenced an application before the Federal Court.

The CFPM, as the head of the Military Police, has no obligation to accept all, or even any, of the MPCC's findings or recommendations. However, the CFPM does have an obligation to set out in the Notice of Action any action that has been or will be taken with respect to the complaint, and, if the CFPM decides not to act on any of the MPCC's findings or recommendations, to explain why. In the Fynes Final Report, the MPCC found that the failure to respond to many of the findings and recommendations had the effect of circumventing the operation of the oversight regime in place for the Military Police. This regime achieves accountability by imposing an obligation on the Military Police to answer for its decisions, action or lack of action to the Minister, to the MPCC and, ultimately, to the parties involved and to the public. Accountability cannot be achieved where what is being done is not revealed.

The full text of the MPCC's Final Report, including the CFPM's Notice of Action, is available on the MPCC's website.

III

PUBLIC INTEREST INVESTIGATION INTO ANONYMOUS COMPLAINT (TREATMENT OF DETAINEES)

On November 4, 2015, Chairperson Hilary McCormack decided that the MPCC will conduct a Public Interest Investigation (PII) into an anonymous complaint relating to the alleged mistreatment of detainees in Afghanistan by the Military Police and the related investigations. This is the MPCC's 14th Public Interest Investigation, and the first to be launched based on allegations made in an anonymous complaint.

The complaint alleges that between December 2010 and January 2011, the Commanding Officer of the Military Police Company stationed at Kandahar Airfield, Afghanistan conducted exercises in order to "terrorize" the detainees. According to the complaint, on at least one occasion, MP members entered the detainees' cells in the middle of the night, carrying weapons and other police equipment, and pushed detainees against the wall and on the floor and applied arm locks.

The complaint alleges that the Canadian Forces National Investigation Service (CFNIS) conducted an investigation in order to bring serious charges against the MP Commanding Officer. Although the CFNIS has the independence and authority to lay charges, it is alleged that in this case, they did

"This obligation [to provide the Notice of Action] is meant to achieve the twin goals of accountability and transparency, which are essential for meaningful independent oversight."

Fynes Final Report, March 10, 2015

not do so. Instead, charges were allegedly provided to the CAF Task Force Commander who, according to the complainant, ignored them. The complainant further alleges that a lieutenant-colonel in the MP chain of command was subsequently tasked to conduct an investigation into the events. S/he complains that despite these various investigations, no court martial or charges resulted.

The MPCC Chairperson noted that the complaint letter reveals a perception that the matter may have been deliberately ignored or even "covered up", and that the CFNIS members may have ceded their authority to lay charges. She also found that the comments of some of the individuals identified as "reference persons" in the letter further reveal a perception on the part of at least some of the members deployed to Kandahar Airfield at the time that the CFNIS investigation may have been improperly directed by "Ottawa" or influenced by concerns about the reputation of the MP or CAF in light of the public attention issues involving the treatment detainees can receive.

In making her decision to conduct a PII into this complaint, the Chairperson considered the nature and seriousness of the allegations, the need for an independent, public and transparent investigation process, and the measures taken by the complainant to protect his or her identity.

The Chairperson found that the allegations about the exercise(s) involving detainees describe a potentially serious incident, involving potential ramifications for the CAF's reputation and Canada's international relations. She noted that the complaint raises questions about the CFNIS's independence in the conduct of the investigation and the impact that it might have on the public's confidence in the MP's ability to investigate its own members, as well as members of the CAF of all ranks and in any location. She found that the allegation that the Military Police may have been involved in covering-up misconduct on the part of MP or other CAF members is a very grave one that goes to the heart of the MPCC's mandate to ensure accountability and foster public confidence.

After reviewing the steps taken by the complainant to remain anonymous and the nature of the allegations made in the complaint, MPCC Chairperson Hilary McCormack concluded: *"Under the specific circumstances of this case, only an independent investigation could provide sufficient reassurance to the complainant and to others, so that in the future individuals are not dissuaded from stepping forward to voice their concerns or complaints due to fear of reprisals or lack of confidence in the mechanisms available to investigate such complaints."*

In May 2015, the newspaper *La Presse* published a series of articles describing allegations similar to those in the complaint. Other media followed suit. As Ms. McCormack wrote in her decision, the fact that allegations similar to those in this complaint had been made public is not determinative, but *"...constitutes one more reason why it is important that the findings about these allegations also be available to the public."*

The MPCC has asked the MP for disclosure of all relevant materials in its possession. The MPCC will then determine the scope of the investigation and identify the subjects of the complaint.

IV

OUTREACH

Meeting with Military Counterparts

Ms. McCormack had the privilege to meet with DND senior officials and commanders such as the Chief of Defence Staff, the Vice Chief of Defence Staff, the Commander of the Canadian Army, the Commander of the Royal Canadian Air Force, the Commander of the Royal Canadian Navy, the Judge Advocate General, and the Canadian Forces Provost Marshal.

Visits to Canadian Armed Forces Locations across Canada

The MPCC's outreach program is key to building relationships with the Military Police, the community they serve and the Canadian Armed Forces at large. The value of meeting people face-to-face cannot be overstated.

These annual visits to military locations across Canada are meant to increase awareness of the MPCC's mandate and activities, and to respond to questions and concerns about the complaints process. The primary audiences are:

- members of the MP who may be directly affected by the process, whether as subjects, complainants or witnesses of conduct complaints or as complainants and witnesses in interference complaints;
- the military chain of command, which relies on the services of members of the MP to maintain military discipline, but cannot interfere with police investigations; and
- those who may interact with the MP because they live, work, or visit a CAF base. The MPCC's connection to this group is often made through the executive directors and staff of the Military Family Resource Centre (MFRC) at each base.

The MPCC's goal is to reach as many members of the military family as is possible, while respecting the operational realities of CAF bases and wings across the country.

In 2015, MPCC staff visited 9 Wing Gander, 5 Wing Goose Bay, and Canadian Forces Station St. John's, in NL; in Saskatchewan, CFAD Dundurn and 15 Wing Moose Jaw; and CFB Suffield, Wainwright Garrison and CFB Garrison Edmonton in Alberta.

The feedback provided by participants who attended the 2015 information sessions was positive. They were interested in learning about the complaint process and appreciated the opportunity to ask questions. Several commented positively on the use of actual case examples to present a detailed explanation of the complaint process. Many suggested using even more audience participation in future presentations.

The MPCC greatly appreciates the efforts of the many individuals who organized, supported and participated in its outreach activities at the bases and the Canadian Forces Military Police Academy.

Military Police Academy

This year, the MPCC made particular efforts to enhance its relationship with the Canadian Forces Military Police Academy. Discussions and meetings with the MP Academy Commandant have been fruitful. Such discussions have assisted with the revitalization of the MPCC outreach presentations for the various levels of MP training courses. Through the fall, MPCC counsel and Academy staff have engaged in dialogue with a goal of increasing the MPCC's presence in Academy courses and to assist the MPCC in developing presentations targeted to the specific duties and skills being taught in each Academy course. The MPCC have created new presentations for 2016 specifically targeted for the various course levels. We look forward to continuing this interaction with Academy staff and students.

University of Ottawa Faculty of Law – Military Law Class

On February 23, 2015, the Chairperson and the MPCC's General Counsel presented before the Military Law Class of the University of Ottawa's Faculty of Law, providing background on the role of the MPCC, its function and the types of complaints it investigates. Topics covered included the MPCC governing legislation, public confidence and trust, the rule of law, the purpose of oversight, the conduct and interference complaints process and selected case examples.

Canadian Association for Civilian Oversight of Law Enforcement (CACOLE)

CACOLE is a national, non-profit organization of individuals and agencies dedicated to advancing the concept, principles and application of civilian oversight of law enforcement organizations across Canada and abroad. CACOLE is recognized worldwide for its oversight leadership. The MPCC's Chairperson is a member of the CACOLE Board of Directors.

CACOLE's annual meeting was held this year in Ottawa, Ontario, May 11 – 13 and was well attended by MPCC staff. This year's theme was "Civilian Oversight: The Link between Community and Police". Panel discussions focused on a wide range of topics, including recent legal developments relevant to police conduct and oversight; freedom of information and privacy issues affecting Canadian police agencies and police oversight bodies; ethics in policing; and how communications and outreach programs educate the public on how to engage the complaints process and help manage public expectations.

Canadian Bar Association (CBA)

The CBA is a professional, voluntary organization which represents some 37,000 lawyers, judges, notaries, law teachers, and law students from across Canada. Approximately two-thirds of all practising lawyers in Canada belong to the CBA. Through the work of its sections, committees and task forces at both the national and branch levels, the CBA is seen as an important and objective voice on issues of significance to both the legal profession and the public. The MPCC's lawyers are members of various sections of the CBA such as Military, Administrative, Privacy and Criminal Law Sections. Two of its lawyers serve as executive members of the CBA's Military Law and Criminal Law Sections.

Council of Canadian Administrative Tribunals (CCAT)

The Council of Canadian Administrative Tribunals is a national organization that supports the work of administrative tribunals and supports excellence in administrative justice. This year, the MPCC's articling student participated in the training course for CCAT adjudicators.

Canadian Military Law Conference

On November 13, 2015, the Chairperson presented as a panelist on the topic of external oversight of the military to participants at the Canadian Military Law Conference.

Canadian Forces Provost Marshal (CFPM) and Deputy Commander Canadian Forces Military Police Group/Professional Standards (CF MP Gp/PS)

In 2015, the MPCC continued its ongoing discussions with both the CFPM and Deputy Commander of the CF MP Gp/PS to address and resolve issues, and further strengthen the complaints resolution process.

V

COLLABORATION

Throughout the year, the MPCC has worked closely with the National Defence leadership, the Canadian Forces Provost Marshal (CFPM), the Military chain of command and the Military Police Community on a number of complex and challenging matters.

Significant progress was made to resolve outstanding issues between the MPCC and CFPM during 2015. These included the agreement to establish a MPCC-CFPM Working Group, a decision regarding access to MP Group Orders and the signing of a new protocol for the handling of Notices of Action.

MPCC-CFPM Working Group

The MPCC-CFPM Working Group is an MPCC initiative to establish an ongoing forum to discuss and clarify issues regarding disclosure of Military Police information to the MPCC. Specifically, the MPCC would like to establish a common understanding of what categories of information may be exempt from disclosure to the MPCC (e.g. solicitor-client privilege) and how those categories are defined. The CFPM has agreed to this proposal and a joint working group of MPCC legal counsel and JAG advisors to CF MP Gp PS is working to resolve issues of common interest.

Update on MP Group Orders

On April 1, 2011, the Canadian Forces Military Police Group was created, bringing all members of the Military Police directly involved in policing under the command of the CFPM. A subsequent internal review of *MP Policies and Technical Procedures* (MPPTP), the standing directives on MPs' performance of public duties and functions, led to the creation of the new *MP Group Orders*.

Since that time, the MPCC has not been provided with an up-to-date set of these directives. Instead, the CFPM discloses, on a case-by-case basis, those orders it deems relevant to the complaint before the MPCC.

The MPCC believes that this approach is inadequate as it hinders its capacity to fulfil its mandate. It must retain the ability to proactively research the full set of MP Orders in order to determine which apply to a particular area of activity, and to identify areas of potential inconsistency or lack of clarity in order to properly review and investigate conduct and interference complaints.

After having raised the issue repeatedly since early 2013, the MPCC was advised in August that access to the set of MP Group Orders would be provided. The MPCC and the CFPM's office are currently working to establish the terms and conditions of that access and anticipate this will be completed early in 2016.

Protocol for Notice of Action Publication

In July, the MPCC Interim Chairperson and the CFPM signed a protocol for the handling of Notices of Action (NOA) and related documents in Public Interest Hearings and Investigations. Notices of Action are the formal response to the findings and recommendations made in the MPCC's Interim Reports. The NOA, prepared by the CFPM's office, sets out the actions that have or will be taken in response to the MPCC's findings and recommendations.

For reasons of transparency and clarity, the MPCC's policy has always been to either cite or include the NOA in its entirety as part of the final report that is produced after a Public Interest Investigation or hearing. All MPCC final reports in public interest cases are published on its website.

The terms of the new protocol protect the MPCC's right to publish the NOA as part of a Final Report, while ensuring that sensitive information is safeguarded.

VI

IMPACT ON MILITARY POLICING – CASE SUMMARIES

The following section provides summaries of selected conduct and interference cases completed by the MPCC in 2015.

A. Interference complaint – Discouraging cooperation with MP investigation

This complaint arose from events during the complainant Military Police (MP) member's deployment on an overseas mission. During the course of duties, the complainant and others became involved in a case of suspected breach of security. The subject of this interference complaint was the Commanding Officer (CO) of the overseas military base at which the events occurred.

During the deployment, an allegation arose that a soldier had arranged for employees of a contractor to enter the base grounds to install portable toilets without the proper security documentation being in place. This matter was reported to the chain of command (CoC) and later to the MP as an alleged breach of security.

The MP initiated an investigation. The member who conducted the investigation attempted to contact the soldier alleged to have caused the security breach. An email exchange with the soldier led the MP to understand that the subject had instructed the soldier not to provide a statement prior to the CoC investigation into the allegations regarding a possible security breach.

The complainant filed an interference complaint with the Military Police Complaints Commission of Canada (MPCC) concerning the subject officer's actions.

Based on the evidence, and taking into account communication gaps, the MPCC found that, while the supervisory inquiries by the CoC had caused a delay in the soldier's response to the MP, it did not affect the subject's ultimate decision not to participate in the investigation. However, the MPCC also observed that better communication at the forefront of the alleged investigation between the MP and the CO may have alleviated issues in this case and in particular the delays in the soldier's ultimate response not to participate in an interview with the MP.

The MPCC concluded that this interference complaint was not substantiated.

B. Conduct Complaint – Leading Witnesses

This complaint arose from the investigation and prosecution of the complainant for domestic violence. The complainant alleged that the military police (MP) investigators involved in the case led the witnesses when questioning them, which influenced the evidence subsequently presented against him at trial. At his trial, some charges against the complainant were dismissed at the request of the prosecution, and the complainant was acquitted on the rest. The complainant added that the leading nature of the questions put by the MP members became an issue during the trial.

The Military Police Complaints Commission of Canada (MPCC) conducted a detailed review of the MP witness interview recordings as well as the court transcripts from the complainant's trial.

The MPCC's review of these records revealed that, while there were indeed some leading questions asked by the MP members in their investigative interviews, some were justifiable. Moreover, even in those instances where MP members' leading questions were not justifiable, they had no material impact on the overall tenor and thrust of the witnesses' evidence. As such, the MPCC found the complaint to be unsubstantiated and made no recommendations relative to this case.

Though not raised by the complainant, the MPCC made additional observations in two areas where it was believed that MP Orders could benefit from further clarification: 1) the taking of sworn and videotaped statements of children; and 2) the interviewing of children in the absence of a parent or other support person.

C. Conduct Complaint – Historical Sexual Assault

In the early 1980's, as a new recruit in the Canadian Forces (CF), the complainant was taking part in basic infantry training (Battle School). He alleges that, as part of an initiation ritual that was common in the unit at the time, he was forced to leave his room in the barracks and to take off all his clothes. He was then tied naked to a chair in the corridor. Other members of the unit then made fun of him and mistreated him: they put a dirty mop on his head, they repeatedly inserted a mop or broom handle between his buttocks and legs from behind and put ice cream on his genitals.

The complainant further alleges that, the following year, on the same base, he was accosted in the corridor by one of the two main participants in the previous incident. That individual grabbed his sweater and held him with his back against the wall for some time. His facial expression and his body language were threatening. The complainant stated that the attacker finally released him and told him to watch out or something to that effect.

The complainant stated that those two incidents had a very negative and lasting effect on him. He started to consume alcohol to excess and to have suicidal thoughts. He also reported having been sexually assaulted at the age of 11 by a summer camp counsellor. He left the CF in the late 1980's.

In 2006, having received psychological support and having recognized the true effect of those incidents on his life, the complainant reported the incidents at the Battle School to the police. The first report he made was to his local detachment of the Royal Canadian Mounted Police (RCMP). Since the alleged offences took place on Department of National Defence property, the RCMP decided to refer the matter to the military police (MP). They communicated with the closest detachment and came to the premises in October 2006.

The next day, given the seriousness of the allegations, the MP detachment transferred the complainant's file to the Pacific Region office of the Canadian Forces National Investigation Service (CFNIS). In November 2006, that office transferred it to the Eastern Region (ER) because of the location where the offences were committed.

The CFNIS decided to investigate the allegations of sexual assault with a weapon, unlawful confinement, assault and uttering threats. The investigation lasted four years (from 2006 to 2010). For the first two years, five CFNIS members were assigned to the investigation. For the last two years, a single investigator was responsible for the file. The CFNIS ER made contact with 18 of the complainant's former Battle School classmates in order to verify their recollections of the incident. It conducted 13 interviews with 10 witnesses, including the 2 main suspects whom the complainant had implicated.

During the investigation, the CFNIS learned that the complainant had already made contact with some of the witnesses, running the risk of tainting their recollections with his own. The CFNIS asked the complainant to cease that practice, but it seems that he continued to communicate with the witnesses before they were interviewed by the police.

The last CFNIS investigator responsible for the file presented the case to a military prosecutor in 2009.

The MP was bound by the law in effect at the time of the offences; it provided for a limitation period of three years in which charges had to be laid under the *Code of Service Discipline*. (That provision of the *National Defence Act* (NDA) has since been repealed.).

At the beginning of 2010, the case was presented to a civilian prosecutor in the province where the alleged offences took place. In that province, the decision to lay criminal charges lies with the prosecutors and not with the police. In this case, the prosecutor determined that a conviction was unlikely and decided not to lay charges under the *Criminal Code of Canada*. The CFNIS therefore decided to end the investigation and to close the file.

After considering the various legal options available, the complainant finally registered a complaint of misconduct with the Military Police Complaints Commission of Canada (MPCC). In his complaint, he alleges that the CFNIS investigation had been deliberately "botched" as part of a plot designed to protect the reputation of the unit involved in the initiation practice and of its former members.

After a thorough review of the complaint, the MPCC found that the CFNIS had taken the original criminal allegations seriously, contrary to the claims of the complainant. Many witnesses were located and questioned. The MP presented the case to a military prosecutor and to a civilian prosecutor. Military prosecution was ruled out because of the limitation period in effect under the NDA at the time when the offences allegedly occurred. As for the decision not to lay criminal charges in the civilian system, it must be remembered that, in the province in question, that decision lies with the prosecutors, not the MP.

Although some aspects could have been improved, the investigation was not flawed in the manner suggested by the complainant. There was no evidence that the MP investigators were covering anything up.

The MPCC noted that the evidence gathered during the CFNIS investigation (such as the recordings of the interviews) was destroyed about two and a half years after the MP investigation file was closed. This raises administrative and procedural questions. After investigating the matter, the MPCC concluded that the evidence was not destroyed with any malicious intent. However, the MPCC has established that other police services keep evidence in similar cases much longer. It therefore recommended that the CF MP Group (CF MP Gp) adopt policies that more closely match those of its civilian counterparts.

D. Interference Complaint – Direction not to Investigate

This complaint arose from events during the complainant Military Police (MP) member's deployment to a military exercise that took place on land and at sea. During the course of assigned duties, the complainant and others became involved in a case involving suspected child pornography in the possession of a sailor participating in the exercise.

The Canadian Forces National Investigative Service (CFNIS) was called in to assume carriage of the case. It also happened at this point in time that the subject of this complaint, the complainant's superior (a naval officer), decided to repatriate the complainant for performance reasons. At one point in the course of these events, the subject, in an email to the complainant, instructed the latter not to conduct any investigation of the child pornography matter, as the CFNIS was assuming investigative responsibility.

The subject also directed that, on his trip back to Canada, the complainant, escort the sailor who was the subject of the aforementioned MP investigation back as well. When the complainant raised concerns that as an MP member he would be obliged to caution the sailor and allow the sailor to exercise the right to counsel, the subject responded that the complainant was to complete the escort as a CF warrant officer, not as an MP. The complainant was also requested to sign an acknowledgement letter which confirmed the complainant was not escorting the sailor back to Canada as an MP; however, there is no evidence this was directed by the subject of the complaint.

The complainant sought advice from the MP Services Group in Canada in response to the request to sign the document stating the complainant was not acting as an MP when conducting the escort. The MP Services Group advised him not to sign the letter of acknowledgement, as the complainant could not suspend his MP status. The complainant never signed the letter, but did accompany the sailor suspect back to Canada.

The complainant filed an interference complaint with the Military Police Complaints Commission of Canada (MPCC) concerning the subject's actions.

The direction by the subject to the complainant – not to investigate a criminal matter because the CFNIS had already confirmed their pending involvement – initially seemed troubling to the MPCC. However, when taken in its factual context, the MPCC concluded the direction simply reflected the subject's understanding that any legitimate investigative role for the complainant was displaced by the involvement of the CFNIS. Moreover, the complainant did not take steps to explain to the subject his ongoing responsibilities to the investigation pending the arrival of the CFNIS.

As for the request for the complainant to sign a written acknowledgement that he was acting only as a Warrant Officer and not an MP while conducting the escort, while it was not appropriate to try to get the complainant to sign such a statement, there was no evidence that the acknowledgement was pursued at the behest of the subject.

After an extensive investigation, the MPCC reached the conclusion that this interference complaint was unsubstantiated.

E. Interference Complaint – Updating the Chain of Command

This complaint arose from events during the complainant Military Police (MP) member's deployment to an international military exercise that took place on land and at sea. During the course of assigned duties, the complainant and others became involved in the investigation of a sexual assault complaint made by a foreign sailor (the victim) to the local police department (LPD). The victim believed, based on limited information, that the attacker was a Canadian sailor. Canadian Forces involved in the exercise were therefore contacted by the LPD for their assistance in the investigation.

The subject naval officer of the complaint was the complainant's superior during the deployment. After learning the complainant was involved in the distribution of composite sketches prepared by the LPD of two suspects in the sexual assault, the subject offered the complainant guidance regarding which channels the sketches should best be distributed to CF units in the area. The subject also requested that daily update reports be provided by the complainant on the progress of the local police investigation, so the Chief of Staff for the Commander of the Canadian contingent could be aware of any potential impact on exercise operations, including dealing with any possible diplomatic repercussions.

The complainant took exception to the subject's guidance on sketch distribution, and the requirement for daily updates, even on days when no new information had been provided by the LPD. The complainant was ultimately criticized by both the subject and the Chief of Staff for not keeping the chain of command (CoC) sufficiently informed about developments in the LPD investigation, and was ultimately repatriated to Canada prior to the conclusion of the military exercise.

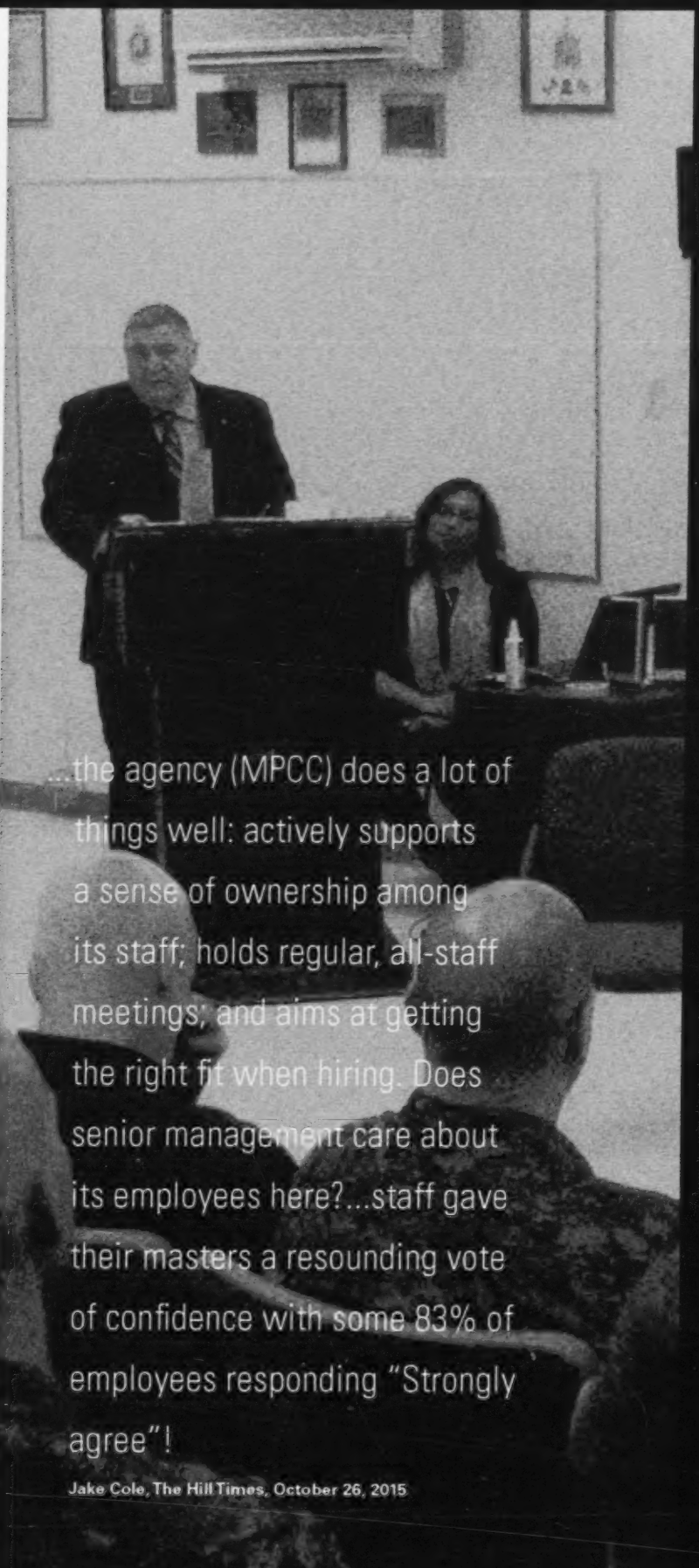
The complainant filed an interference complaint with the Military Police Complaints Commission of Canada (MPCC) concerning the subject's conduct.

Differing perceptions on the part of the complainant and his superiors concerning the roles the complainant was required to fulfil at the exercise, as well as the legitimate informational requirements of the CoC, appeared to be at the root of the complaint. The complainant was directly answerable and accountable to the field CoC in operational duties, and only in policing duties did the complainant exercise a certain degree of required independence. But even here, it is well established that commanders have a need to know certain information about the nature and status of investigations involving persons under their command. In addition, it is not improper interference for a member of the non-MP CoC to provide good-faith guidance on logistical aspects of an investigation, such as the manner of distributing the suspect sketches among relevant Canadian personnel.

After an extensive investigation the MPCC concluded that this interference complaint was unsubstantiated.

PART 3

STEWARDSHIP EXCELLENCE



...the agency (MPCC) does a lot of things well: actively supports a sense of ownership among its staff; holds regular, all-staff meetings; and aims at getting the right fit when hiring. Does senior management care about its employees here?...staff gave their masters a resounding vote of confidence with some 83% of employees responding "Strongly agree"!

Jake Cole, The Hill Times, October 26, 2015

I

THE PUBLIC SERVICE EMPLOYEE SURVEY – "BEST OF MICROS"

The Public Service Employee Survey (PSES) has been conducted every three years since 1999. It measures federal government employees' opinions about engagement, leadership, the workforce and the workplace. A total of 182,165 employees – about 71.4% of the public service – responded to the 2014 survey.

Our staff can be proud of the survey's results: The MPCC claimed the top spot among the federal government's 27 micro agencies and achieved a 100% response rate. Their answers revealed an 87% satisfaction rate with their workplace, managers and leaders, more than double the micro agency average of 42%. 83% of the respondents from the MPCC "strongly agreed" that "senior managers… lead by example in ethical behaviour". The corresponding figure was 37% for all micro agencies combined and 24% for the public service as a whole. Similarly, 87% of respondents from the MPCC "strongly agreed" with the statement "I would recommend my department or agency as a great place to work" in contrast to 42% for all micro agencies combined, and 28% for the public service overall.

According to an article about the survey published in *The Hill Times*, *"With 30 employees (and all of them completed the survey), the agency does a lot of things well: actively support a sense of ownership among its staff; holds regular, all-staff meetings; and aims at getting the right fit when hiring."*

As the reporter noted, the MPCC is an *"…example of a public service agency doing good work while making employees happy to be a part of it."*

II

FINANCIAL MANAGEMENT

In 2015, the MPCC continued to demonstrate sound management of its financial resources. It effectively planned, managed and controlled its budget and expenditures to meet operational requirements and increased central agency requirements including timely and accurate financial reporting. Throughout 2015, regular financial updates were provided internally to the MPCC Executive Committee and externally to central agencies in order to reinforce rigorous financial management and control.

Operating Budget: The MPCC's ongoing annual budget of $4.2M supports the delivery of the MPCC's legislative mandate under Part IV of the *National Defence Act*. This includes complaints resolution, internal services and all other activities to support central agencies' requirements, including reporting demands by central agencies and Parliament (Reports on Plans and Priorities, Departmental Performance Reports, Annual Reports, Financial Statements, Quarterly Financial Reports and Departmental Staffing and Accountability Reports). The 2015 operating budget of $5.4M includes one-time funding of $941,000 for office improvements which includes making the hearing room more functional and improving the security of the premises.

Special Funding: The MPCC did not receive any new funding in 2015 for the Fynes Public Interest Hearing, which concluded this past year, or for the multi-jurisdictional conduct complaint review which is anticipated to be completed in 2016. Rather, the expenditures related to the work completed on these files were absorbed in its operating budget.

Additional Financial Information: Additional financial information about the MPCC's financial and expenditure management can be found in the Publications Section of the MPCC's website in the Report on Plans and Priorities, the Departmental Performance Report, Quarterly Financial Reports, Annual Financial Statements and Proactive Disclosures.

III

HUMAN RESOURCES (HR) MANAGEMENT

The MPCC continued to stress effective HR planning. Anticipating potential staff turnover, developing staffing strategies to help ensure knowledge retention (e.g. through employee learning plans) and ensuring vacancies are filled as quickly as possible are just a few of the planning measures that have been implemented.

There were two Governor-in-Council appointments: the Chairperson and a Commission Member.

The MPCC also staffed a number of key positions in both Operations and Corporate Services in 2015. Four corporate positions were filled: the Access to Information and Privacy Officer, the Administrative Services Officer, the Human Resources Advisor and the Records and Information Management Officer. In Operations, two Registry Officer positions were filled. With these additions to its staff, the MPCC has been able to maintain its standards of operational excellence.

IV

GOVERNMENT INITIATIVES

Blueprint 2020: In June 2013, the Clerk of the Privy Council launched Blueprint 2020. The objective of this initiative was to validate a vision for a world-class Public Service, and to identify the actions required to make this vision a reality. The vision is for Canada's Federal Public Service to be recognized as having the best people working together with citizens, making smart use of new technologies and achieving the best possible outcomes with efficient interconnected and nimble processes, structures and systems. The core objective is to improve the lives of our citizens and to secure a strong future for our country. The Guiding Principles of this initiative help the MPCC to examine how work is done to address the question: What can we do to take full advantage of everything at our disposal to serve Canada and Canadians in the years ahead while upholding our enduring values? The Guiding Principles are:

- An open and networked environment that engages citizens and partners for the public good;
- A whole-of-government approach that enhances service delivery and value for money;
- A modern workplace that makes smart use of new technologies to improve networking, access to data and customer service; and
- A capable, confident and high-performing workforce that embraces new ways of working and mobilizing the diversity of talent to serve the country's evolving needs.

These principles underlie much of the work that the MPCC has undertaken this past year. In 2015, the MPCC continued to engage employees in the Blueprint 2020 Initiative through self-directed activities, online tools and facilitated activities. Communication is a key part of staff engagement. The Blueprint 2020 Ambassador and Champion continue to keep staff involved in the initiative through regular communication.

Web Renewal Initiative (WRI): The Web Renewal Initiative to consolidate 1,500 departmental websites into one single website – Canada.gc.ca – is still on track for December 31, 2016. The first iteration is online. The website's 'principal publisher' is Service Canada, but each department and agency still owns and is responsible for creating its own content. The MPCC met several WRI objectives in 2015 by providing a full website inventory in January 2015 and launching its profile page as part of the Canada.gc.ca site in April 2015.

Record Keeping: The MPCC continues in its efforts to move its Information Management (IM) system to a fully electronic document environment (EDRMS). Its goal is to implement a solution that will ensure the efficiency and effectiveness of its life cycle management of electronic documents and records, as well as the efficient response to access to information and privacy requests (ATIP).

CONCLUSION AND RECOMMENDATION

The end of a calendar year is often a time for reflection. As 2015 draws to a close, I find I have much to reflect upon as I look back on my first months with the Military Police Complaints Commission of Canada.

From my very first day here, I have been impressed with the caliber of people working for the MPCC. The Commission Members, lawyers, investigators and registry staff deal with the growing number of complaints we receive. On the corporate services side, they are the people whose work in Information Technology, Communications, Finance, Human Resources, Access to and Management of Information, Planning and Administration supports the MPCC's operations.

These are experienced people who are passionate about what they do. This was reflected in the most recent Public Service Employee Survey in which the MPCC scored highest in the micro agency category. To quote a news article, the MPCC is an "…example of a public service agency doing good work while making employees happy to be a part of it." I am proud to have joined this team of dedicated men and women.

Civilian oversight of a police organization can be a challenging task. Our reputation depends upon access to the information we need to monitor and investigate complaints.

I am pleased to report that progress has been made with regards to some of these access issues: the signing of a protocol for the handling of Notices of Action, the agreement by the CFPM to release of a full set of MP Orders to the MPCC, as well as the acceptance of a proposal to establish a working group to clarify issues regarding the disclosure of Military Police information to the MPCC.

However, certain challenges remain outstanding.

One of these is the MPCC's anomalous absence from the *Canada Evidence Act* (CEA) schedule of designated entities.

This schedule enumerates those entities whose receipt of sensitive information relating to international affairs or to national defence or security is exempted from the cumbersome and time-consuming notification and challenge procedures otherwise applicable to the disclosure of such information. Given the MPCC's mandate, and the mandate of the MPs to investigate sensitive matters in the context of overseas operational missions, it is not difficult to think of situations in which such information would be relevant to

investigating a complaint. Indeed, it is precisely in these types of sensitive cases where public confidence in the efficacy and credibility of independent oversight is most critical.

It should be emphasized that in adding the MPCC to the CEA schedule, the MPCC would not itself be authorized to disclose such sensitive information without the agreement of the Attorney General of Canada or authorization from the Federal Court. Relevant MPCC personnel have the necessary security clearance to view such information, and this CEA scheduling of the MPCC would allow it to more efficiently and effectively discharge its responsibilities while still safeguarding sensitive information.

Moreover, there are other administrative bodies currently on the CEA schedule, including the Civilian Review and Complaints Commission for the RCMP, which was added in 2013 by Bill C-42. This is particularly noteworthy in that the Commission has an almost identical mandate to the MPCC in terms of its review of complaints about police conduct.

Finally, a military police conduct or interference complaint relating to events in an overseas operation is not a remote or speculative prospect. Indeed, we have already dealt with several such cases. In the previous Public Interest Hearing case arising from complaints about the transfer of Afghan detainees to an alleged risk of torture, the invocation of the CEA restrictions vis-à-vis the MPCC was a notable impediment. In other cases, we have been more fortunate, in as much as they either did not involve sensitive information, or, for whatever reason, the CEA restrictions were not invoked.

It is impossible to know when the next military policing complaint involving sensitive information will materialize. Therefore, I commend the issue to Parliament's serious consideration.

It is clear that we will continue to face challenges in 2016, especially given the unpredictable workload demands and the complexity of the complaints the MPCC receives. However, I am encouraged by our recent success in forging a stronger relationship with the Canadian Forces Provost Marshal's office.

I am confident that, in the year ahead, we will continue to work closely with the CFPM, with the National Defence leadership, the Military Police community and our other partners and stakeholders towards a common goal: to promote and ensure the highest standards of conduct of Military Police in the performance of policing duties and to discourage interference in any Military Police investigation.

Hilary C. McCormack, LL.B.
Chairperson

APPENDIX

BIOGRAPHY OF THE CHAIRPERSON

Hilary C. McCormack, LL.B.
Chairperson

Hilary McCormack was appointed Chairperson of the Military Police Complaints Commission of Canada (MPCC), effective October 5, 2015.

Prior to her appointment, Ms. McCormack was Director of Crown Operations (East Region) at the Ontario Ministry of the Attorney General, a position she had held since 2009. As Regional Crown Attorney, she supervised 10 Crown Attorney offices and was responsible for criminal prosecutions and summary conviction appeals in Eastern Ontario. In addition to her management duties, Ms. McCormack continued to prosecute many high profile and complex trials. She received the Ministry of the Attorney General Excelsior Deputy's Award in 2010.

Ms. McCormack graduated from the University of Western Ontario's law school. Following her call to the Ontario Bar in 1980, she was in private practice for three years before joining the Ontario Ministry of the Attorney General as Assistant Crown Attorney in 1983. She was seconded to the federal Department of Justice in 1992. Her work as General Counsel, Criminal Law and Policy, resulted in amendments to the *Criminal Code of Canada* which enhanced the general protection of women and children from sexual and physical violence for which she received the Department of Justice Deputy Minister's Merit Award in 1994.

She returned to the Ontario Ministry of the Attorney General in 1994 where she continued to prosecute complex homicides and to develop her expertise in a number of criminal justice issues: child abuse, sexual assault and domestic violence; best practices in case management and trial processes and mental health. Over the course of her career, she travelled to Thailand and Kosovo to provide legislative and policy advice in these areas and frequently hosted foreign delegations, including delegations from Russia, China, Afghanistan and the Palestinian Authority, on systemic issues and best practices.

Ms. McCormack prosecuted the first case in Canada to successfully use DNA evidence. She subsequently established an ad hoc committee to provide advice about the use of DNA evidence to Crown prosecution services and police services across Canada and internationally. She also worked on policy and legislative initiatives for both the DNA warrant provisions and the DNA data base which have transformed policing and prosecutions in Canada. This interest in facilitating transformative change also prompted her to implement a Drug Treatment Court, an Adult Mental Health Court and, for the first time in Canada, a Youth Mental Health Court while she was the Crown Attorney for Ottawa, an appointment she received in 2000, and the first woman to ever hold that position.

Between 2000 and 2005, Hilary McCormack was a member of the Department of National Defence's Military Police Advisory Committee which provided advice to senior military leadership about significant changes to the military police and their investigative capacity. The committee's recommendations improved the military police's relationship with civilian courts and prosecution services, and provided opportunities for enhanced police training and education.

Hilary McCormack has taught criminal law at the University of Ottawa, at the Bar Admission course, and served on the faculty of the Federation of Law Societies Criminal Law program. She is a frequent speaker at judicial, legal and police conferences, helped develop instructional material for the National Judicial Institute, and written and published extensively on various legal issues. She has served as a volunteer on the boards of directors and committees of not-for-profit organizations.

Glenn M. Stannard
(September 2007 – March 2015)
Chairperson
Interim Chairperson
Commission Member

Born, raised and educated in Windsor, Ontario, Glenn Stannard served with the Windsor Police Service for 37 years. During this time, he was promoted through the ranks and worked in all divisions of the Service. In August 1995, Mr. Stannard was promoted to Deputy Chief of Police, Administration. His dedication to the city and its citizens was recognized in 1999 with his appointment as Chief of Police, a position which he held until his retirement in February 2008.

Glenn Stannard served as a Director of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE). He is also a Past President of the Ontario Association of Chiefs of Police (OACP) and is a lifetime member of the OACP and the Canadian Association of Chiefs of Police. In 2003, he was invested as an Officer into the Order of Merit of the Police Forces by Her Excellency the Governor General of Canada. He received the Queen's Jubilee Award in 2005 and the Queen's Diamond Jubilee Medal in 2013.

Mr. Stannard joined the MPCC as a part-time Commission Member in September 2007. In December 2009, he became the MPCC's Interim Chairperson. He was subsequently appointed full-time Chairperson in June 2010. In addition to his Chief Executive Officer duties, Mr. Stannard co-presided over the Afghanistan Public Interest Hearing (PIH) and presided over the Fynes PIH into the conduct of Military Police investigations related to the death of Corporal Stuart Langridge. Mr. Stannard has rendered decisions on numerous conduct and interference complaint files.

BIOGRAPHIES OF THE COMMISSION MEMBERS

Steven Chabot
(December 2011 – December 2015)
Commission Member

Steven Chabot's 33-year career in the Sûreté du Québec police includes patrol, investigative and senior executive experience. He was successively appointed Captain in charge of Carcajou Squad, Assistant Deputy Director General and Deputy Director General in various branches of the Sûreté du Québec.

Mr. Chabot has acted as an advisor to the Quebec government on questions pertaining to public security and has a keen interest in the professionalization of police services. In 2006, he was invested as an Officer into the Order of Merit of the Police Forces by the Governor General of Canada. He was elevated in this Order to the rank of Commander in 2010. Mr. Chabot retired from the police service in 2010.

Mr. Chabot holds a master's degree in Public Management from the École nationale d'administration publique (ÉNAP) and is fluent in both French and English. He was appointed as a Commission Member in December 2011.

Troy DeSouza
(October 2015 – present)
Commission Member

Troy DeSouza was appointed as a Commission Member for a four-year term on June 22, 2015.

A long-time resident of Victoria, British Columbia, he has practiced law in B.C. for the past 17 years, providing legal advice to local government clients. He has conducted litigation before administrative tribunals, appeal boards, and at all levels of courts in British Columbia.

Mr. DeSouza is also an educator. He has created several courses for local government staff and elected officials. He is a member of numerous professional organizations, and is Co-Chair of the Municipal Law Section of the Canadian Bar Association, B.C. Branch.

Troy DeSouza is a graduate of the University of Windsor's law school. He had a diverse career before being called to the Bar in 1998. He worked as a consultant for the Attorney General of Ontario, and served seven years in the Canadian Armed Forces where he obtained the rank of Captain.

Hugh R. Muir
(December 2011 – November 2015)
Commission Member

Hugh Muir's 40-year career as a municipal police officer began in 1971 with the Metropolitan Toronto Police Force. He worked there until 1979, when he accepted a position with the Stellarton, Nova Scotia Police Department. When he retired in December 2011, he held the rank of Acting Chief.

Mr. Muir received police-related training at the Ontario Police College, Toronto Police College, Atlantic Police Academy and Henson College-Dalhousie University. He is a strong proponent of alternative dispute resolution in policing.

Mr. Muir is an active volunteer in the County of Pictou, Nova Scotia. He was invested as a Member of the Order of Merit of the Police Forces by Her Excellency the Governor General of Canada in 2007. He was appointed as a Commission Member in December 2011.

Michel Séguin
(March 2014 – present)
Commission Member

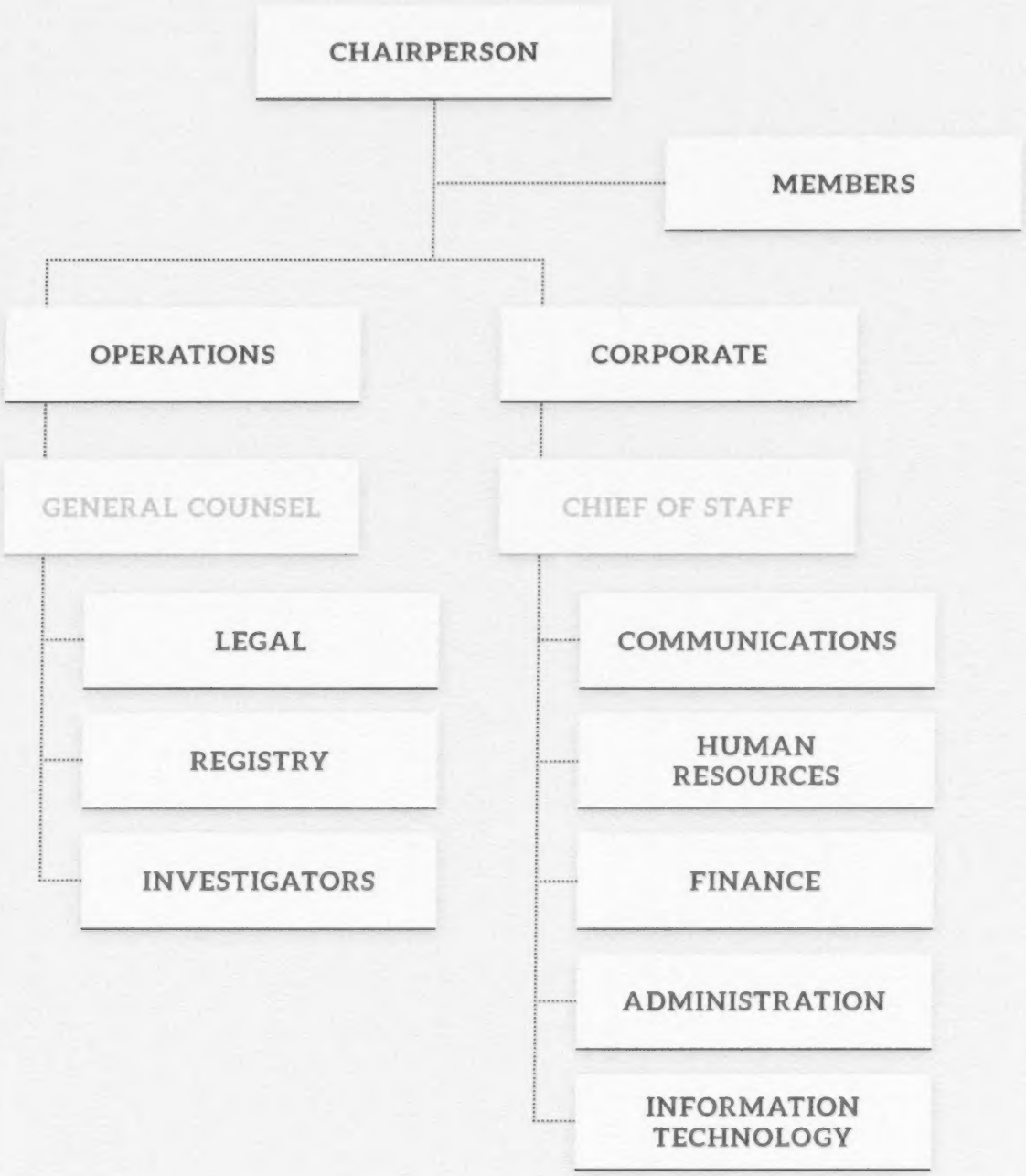
Michel Séguin was appointed Commission Member on March 6, 2014. He was appointed Interim Chairperson after Glenn Stannard's retirement in March 2015 and served in that role until October 2015.

Mr. Séguin has extensive operational policing experience, having spent 33 years with the Royal Canadian Mounted Police (RCMP). During his service with the RCMP, he held the position of Ethics and Integrity Advisor and sat as an adjudicator for Code of Conduct hearings. Mr. Séguin retired from the RCMP in 2008 as Assistant Commissioner and the Commanding Officer of "O" Division (Ontario).

After his retirement from the RCMP, Mr. Séguin joined the House of Commons Administration as Director General, Parliamentary Accommodations Services, a post he held for five years.

Mr. Séguin was invested as an Officer of the Order of Merit of the Police Forces in May, 2008.

ORGANIZATION CHART



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